

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

MORGAN C. HUNTLEY, DAI NGUYEN, TINA)
NGUYEN, ANDREW KIM, ALAN NGUYEN,)
MICHELLE NGUYEN, MARY DO, NIGEL)
RICHARDS, PETE O'HEERON, CHESTER J.)
KASON, LARA ERTWINE, DINA RIENG,)
JERRY CHAU, BRANDON CLARK, ALBAN)
HAXHIU, MARIO DIEZ, FRANCES MITRA,)
CHRISTOPHER SIMON, VINCE MORELLI,)
ANDREW COLLIER, COREY J. PEIFER,)
ANDREW GREEN, JAMIE COYLE, NICOLE)
CASHMAN, ROSE MCMANUS, SYLVIA)
DEANGELO CASHMAN, JANE RICHARDS,)
DRILON RADA, MICHELLE CONRON, LIAM)
LARKIN, BENJAMIN SCHNEIBLE, TIMOTHY)
EDSON, SPIRO THEOFILATOS, BOHDAN)
LANCINGER, JOSH WINKELMAN, and DAWN)
DELGADO,)

Plaintiffs,

v.

VBIT TECHNOLOGIES CORP., VBIT MINING)
LLC, VBIT DC CORP., ADVANCED MINING)
GROUP, DANH CONG VO a/k/a DON VO,)
SEAN TU, LILLIAN ZHOU, JOHN DOE)
INDIVIDUALS 1-10, and ABC COMPANIES)
1-10,)

Defendants.

Civil Action No. 22-1164-CFC-SRF

MEMORANDUM ORDER

At Wilmington this **5th** day of **July, 2023**, the court having considered the unopposed renewed motion of Brett M. McCartney, Elizabeth A. Powers, and Ronald P. Golden III (collectively, the "Movants") to withdraw as counsel (the "Renewed Motion") for defendant

Danh Cong Vo (“Don Vo”) on behalf of themselves and Bayard P.A., (D.I. 100),¹ IT IS ORDERED that the Motion is GRANTED for the following reasons.

1. **Background.** On May 12, 2023, the Movants filed a motion to withdraw as counsel along with a notice of service of the Motion and associated filings by certified mail and email on Don Vo. (D.I. 64; D.I. 67) The court entered an Order scheduling a hearing on the Motion for June 26, 2023. (D.I. 75) At the hearing, the Movants represented that they have been unable to establish contact with Don Vo to obtain the knowledge, authority, or access to information necessary for the Movants to competently represent him.

2. The court denied the motion without prejudice to renew based on the Movants’ representations that they had been unable to confirm Mr. Vo’s receipt of their filings and they had not attempted service of those documents at the address listed in the summons at D.I. 7. (D.I. 93)

3. On June 29, 2023, the Movants filed the Renewed Motion and associated filings and confirmed that those documents had been served on Mr. Vo on June 28, 2023 in compliance with the court’s June 26 Oral Order. (D.I. 98; D.I. 100)

4. **Legal standard.** In the Third Circuit, “there is no multi-factor test that a district court must apply to decide a motion for attorney withdrawal.” *Ohntrup v. Makina Ve Kimya Endustrisi Kurumu*, 760 F.3d 290, 295 (3d Cir. 2014). Instead, “[a] lawyer is entitled to withdraw once [he] demonstrates to the satisfaction of the district court that [his] appearance serves no meaningful purpose.” *LabMD Inc. v. Boback*, 47 F.4th 164, 190 (3d Cir. 2022) (internal citations and quotation marks omitted). A withdrawing firm serves no meaningful

¹ The briefing and filings associated with the pending motion are found at D.I. 98, D.I. 101, and D.I. 102.

purpose where “efforts to communicate with [the client] through the Firm are futile.” *Ohntrup*, 760 F.3d at 295. Accordingly, “it would be an abuse of discretion to deny [a] motion to withdraw” when the withdrawing firm serves no meaningful purpose. *Id.*

5. Analysis. The Movants have satisfied the standard for withdrawing as counsel by confirming that they have been unsuccessful in contacting Don Vo since February 8, 2023. (D.I. 65 at 1) The record supports the Movants’ position that their continued representation of Don Vo would serve no meaningful purpose. *Ohntrup*, 760 F.3d at 295.

6. Conclusion. For the foregoing reasons, IT IS ORDERED that:

- a. The Renewed Motion is GRANTED pursuant to D. Del. LR 83.7.
- b. The Movants and the law firm of Bayard P.A. are permitted to withdraw as counsel of record for Don Vo and are relieved of any and all further obligations on behalf of Don Vo.
- c. Within **thirty (30) days** from the date of this Memorandum Order, Don Vo shall either: (1) retain new counsel, which shall enter its appearance within that time period; or (2) file with the court a letter indicating his intention to proceed in this matter *pro se*.
- d. Failure of Don Vo to retain new counsel or submit a letter indicating his intention to proceed *pro se* in accordance with this Memorandum Order may result in the entry of default in appearance against him.
- e. Until the entry of appearance of Don Vo’s substitute counsel, if any, all future pleadings, motions, discovery, and any and all other communications concerning this matter will be addressed to Don Vo at:

919 N. Front Street, Unit F Philadelphia, PA 19123	<u>Kennyu77@gmail.com</u>
1823 S. Dover Street Philadelphia, PA 19145	

7. IT IS FURTHER ORDERED that the Movants shall serve a copy of this Order upon Don Vo by certified mail and electronic mail, with a read receipt, on or before **July 7, 2023**.

8. This Memorandum Order is filed pursuant to 28 U.S.C. § 636(b)(1)(A), Fed. R. Civ. P. 72(a), and D. Del. LR 72.1(a)(2). The parties may serve and file specific written objections within fourteen (14) days after being served with a copy of this Memorandum Order. Fed. R. Civ. P. 72(a). The objections and responses to the objections are limited to two (2) pages each.

9. The parties are directed to the court's Standing Order For Objections Filed Under Fed. R. Civ. P. 72, dated March 7, 2022, a copy of which is available on the court's website, www.ded.uscourts.gov.


Sherry R. Fallon
United States Magistrate Judge